

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE**

IN RE:)
)
JASON THOMAS SMITH) CASE NO. 3:14-BK-04358
AMANDA LEE SMITH) CHAPTER 13
Debtors) JUDGE MARIAN F. HARRISON
)
)
HAPPY LIVING, LLC)
)
)
Movant)
)
)
vs.)
)
JASON THOMAS SMITH)
AMANDA LEE SMITH)
and)
HENRY E. HILDEBRAND, III,)
CHAPTER 13 TRUSTEE)

Affected Collateral: Executory Lease on 2213 Highland Avenue, Columbia, TN

MOTION FOR RELIEF FROM THE STAY

COMES NOW, HAPPY LIVING, LLC, (“Movant”) through counsel, and pursuant to Bankruptcy Rules 4001(a), would move this Court to grant relief from the automatic stay provisions of 11 U.S.C. §362(a) in order for Movant to pursue state court remedies to enforce its rights under the lease agreement.

In support of this Motion your Movant would show this Court the following:

1. Debtor filed a petition on July 14, 2014 seeking relief under Title 11, Chapter 13 of the United States Bankruptcy Code.

2. Movant has a lease with Debtors for rental of property listed as 2213 Highland Avenue, Columbia, Tennessee. At the filing of the Chapter 13 bankruptcy, Debtors were in default of the lease and an arrearage of \$1200.00 in rent was due to Movant.

3. The Chapter 13 Plan was confirmed on July 17, 2014. The plan provided for the lease to be assumed as an executory lease and to pay Movant \$600.00 a month rent and \$1200.00 in arrearages.

4. Movant's states cause exist to grant relief from the automatic stay to pursue state court action to enforce the terms of the lease. The Movant has not received any payments since the filing of the bankruptcy. Debtors are in arrearage on the lease in the amount of \$2,400.00 as of the date of this filing. Debtors paid \$881.89 into the plan and no payment has been made since July 14, 2014. Debtors are scheduled to pay \$427.00 weekly. Debtors are in default on payments to the Chapter 13 Trustee in the amount of \$4151.44.

5. Debtors have filed bankruptcy three (3) times prior to this filing within the last 10 years. All of which were dismissed in the Northern District of Texas: case#12-42226 filed 4/12/12 and dismissed 2/28/13; case # 08-42145 filed 5/7/2008 and dismissed 6/23/2011; and case#08-41045 filed 3/3/08 and dismissed 4/30/2008.

5. Movant will suffer irreparable harm if this motion for relief from the stay is not granted.

6. Upon information and belief the lease is not necessary for the Debtors reorganization.

WHEREFORE, Movant prays:

1. That, after notice and a hearing, the Movant be granted relief from the automatic stay to pursue state court action to enforce the terms of the lease against Debtors.

2. That the provisions of Rule 4001 do not apply to any Order granting this Motion.
3. That in the alternative, Debtors be dismissed from the bankruptcy.
4. For any and all other relief, including attorney fees

Respectfully Submitted,

/s/Teri Hasenour Gordon
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 12 day of August, 2014, a copy of the foregoing was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. All other parties will be served by regular U.S. mail, first-class postage prepaid. Parties may access this filing through the Court's electronic filing system:

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